

Regular Session, 2010

HOUSE BILL NO. 152

BY REPRESENTATIVE HARDY

MTR VEHICLE/DRIVER LIC: Provides for a five-year suspension of a driver's license if driving while license is suspended

1 AN ACT

2 To amend and reenact R.S. 32:415(B)(1) and 415.1(A)(1) and (C), relative to driver's license
3 suspensions and revocations; to provide for extension of a driver's license suspension
4 period after certain convictions; to provide for economic and medical hardship
5 license application procedures; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:415(B)(1) and 415.1(A)(1) and (C) are hereby amended and
8 reenacted to read as follows:

9 §415. Operating vehicle while license is suspended; offenses in other states; record
10 of offenses given other states

11 * * *

12 B.(1)(a) Any period of suspension or revocation shall automatically be
13 extended for a period of one year from the date the licensee would otherwise have
14 been entitled to apply for a new license upon his conviction for any offense involving
15 the operation of a motor vehicle committed during such period.

16 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
17 any period of suspension or revocation shall automatically be extended for a period
18 of two years from the date the licensee would otherwise have been entitled to apply
19 for a new license upon his conviction under this Section, and an additional two years
20 for each subsequent conviction under this Section.

(c) No driver shall use a license issued to him in another state or the privilege of a nonresident to drive a motor vehicle in this state, upon receiving notice of his conviction, or of the entry of a plea of guilty and sentence thereupon, or of the forfeiture of bail in another state of federal jurisdiction for any offense, which if committed in this state, would be grounds for suspension or revocation of the license.

* * *

§415.1. Economic and medical hardship appeal of driver's license suspension

A.(1) Except as provided in R.S. 32:378.2(A), 414, and 415(B)(2), upon suspension, revocation, or cancellation of a person's driver's license ~~for the first time only~~ as provided for under R.S. ~~32:414~~ and 32:415, said person, after initial notice from the department, shall have the right for the first time only, to apply to the department for a restricted license. Upon the second suspension, revocation, or cancellation of a person's driving privileges under R.S. 32:415, the person shall after initial notice from the department, have the right to file a petition in the district court of the parish in which the applicant is domiciled alleging, for a restricted driver's license. There shall be no restricted driver's license issued upon a third or subsequent suspension, revocation, or cancellation of driving privileges under R.S. 32:415. Such application or petition for a restricted license shall allege that revocation of his driving privileges will deprive him or his family of the necessities of life, will prevent him from earning a livelihood, or prevent him from obtaining proper medical treatment if disabled. The district court is vested with jurisdiction to set the matter for contradictory hearing in open court upon ten days written notice to the department, and thereupon to determine whether the allegations of hardship have merit. Upon determination by the department or the court that the lack of a license would deprive the person or his family of the necessities of life or prevent the licensee from obtaining proper medical treatment if disabled, the department may grant or the court may order that the person be granted, by the department, a restricted license to enable the person to continue to support his family or to obtain such medical treatment as provided for in this Section. The restrictions of said

1 license shall be determined by the department or the court and shall include the
2 following:

3 (a) Licensee shall be permitted to operate a motor vehicle only on such
4 streets or watercraft on the waterways of the state as would enable him to earn his
5 livelihood or for treatment of his debilitating condition as provided for in
6 Subparagraph (e) of this Paragraph.

7 (b) Such operation is restricted to such times during which he is involved in
8 earning a livelihood or for treatment of his debilitating condition as provided for in
9 Subparagraph (e) of this Paragraph.

10 (c) During the period of suspension, licensee shall be responsible for
11 applying to the court in the event that either earning his livelihood or treatment of his
12 debilitating condition as provided for in Subparagraph (e) of this Paragraph
13 necessitates a change in the original restrictions proposed by the department or the
14 court.

15 (d) Any other restrictions that the court determines to be necessary and
16 proper.

17 (e) If the licensee is disabled and such disability is a physical impairment
18 that substantially limits one or more of the major life activities of the licensee, such
19 licensee shall be permitted to operate a motor vehicle only on such streets and at
20 such times as would enable him to obtain medical treatment for his debilitating
21 condition.

22 (f) In addition to any other restrictions determined necessary and proper by
23 the department or the court, a license ordered issued and restricted under this Section
24 must include the requirement of installation and maintenance of an ignition interlock
25 device upon a motor vehicle to be used by the licensee during the course of the term
26 of the restricted license, when the suspension of driving privileges arises from
27 operating a vehicle under the influence of alcoholic beverages.

28 * * *

1 C. A violation of the restrictions or a subsequent conviction of any offense
2 involving the operation of a motor vehicle or watercraft during the term of the
3 restricted license shall result in the extension of the period of suspension, revocation,
4 or cancellation for one year from the date upon which the licensee would otherwise
5 have been able to apply for new license and shall also constitute contempt of court.
6 Suspension, revocation, or cancellation that results from such a violation shall not
7 be subject to appeal as set forth in this Section. Except as provided in R.S.
8 32:378.2(B), restricted driving privileges for this Section may be allowed to a person
9 only ~~once~~ two times.

10 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hardy

HB No. 152

Abstract: Provides that a person's driver's license suspension, revocation, or cancellation period shall be extended two years from the date of conviction of driving with a suspended or revoked license with an additional two years added for each subsequent suspension. Provides for procedures for obtaining a restricted driver's license.

Present law provides that a person's driver's license suspension period shall be extended for one year from the date of conviction of driving with a suspended or revoked license.

Proposed law changes the present law for extending the suspension, revocation, or cancellation period from one year to two years from the date of conviction of driving with a suspended or revoked license and adds an additional two years for each subsequent conviction under present law.

Present law provides that upon suspension, revocation, or cancellation of a person's driver's license for the first time only under the provisions of present law, a person shall have the right to file a petition in the district court of the parish in which the applicant is domiciled.

Proposed law changes present law to provide that upon suspension, revocation, or cancellation of a driver's license for the first time only, a person shall apply to the department for a restricted driver's license.

Proposed law requires that upon the second suspension, revocation, or cancellation of a person's driver's license the person shall file a petition in the district court of the parish in which the applicant is domiciled.

Proposed law prohibits issuance of a restricted driver's license for a third or subsequent suspension, revocation, or cancellation of driving privileges.

Present law provides that the court shall make the determination on the restrictions of the hardship license.

Proposed law retains present law except that it also allows the department to make the determination on the restrictions of the hardship license.

(Amends R.S. 32:415(B)(1) and 415.1(A)(1) and (C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Changed the suspension period from five years to two years from the date of conviction and adds an additional two years for each subsequent conviction.
2. Added a provision to allow a person to apply to DOTD for a restricted license upon the first suspension, revocation, or cancellation of driving privileges.
3. Added a provision to require a person to file a petition in the district court of the parish where the applicant is domiciled upon the second conviction.
4. Prohibited a person from applying for a restricted license for a third or subsequent suspension, revocation, or cancellation of driving privileges.
5. Allowed the department to determine the restriction of the license.